



SENATE JOINT RESOLUTION No. 6

DIGEST OF INTRODUCED RESOLUTION

Citations Affected: Article 5 of the Constitution of the State of Indiana.

Synopsis: Exercise of the state's executive power. Requires the general assembly to provide: (1) for the lieutenant governor to discharge the governor's powers and duties as acting governor if the governor is determined to be unable to discharge the governor's powers and duties; and (2) for an individual nominated by the governor to discharge the lieutenant governor's powers and duties as acting lieutenant governor if the lieutenant governor is determined to be unable to discharge the lieutenant governor's powers and duties. Authorizes the general assembly to provide for designated state officers to discharge the governor's powers and duties: (1) until the general assembly elects a new governor, if both the office of governor and the office of lieutenant governor are vacant; and (2) until the general assembly elects an acting governor, if both the governor and the lieutenant governor are disabled or if one is disabled and the office of the other is vacant. This proposed amendment has not been previously agreed to by a general assembly.

Effective: This proposed amendment must be agreed to by two consecutive general assemblies and ratified by a majority of the state's voters voting on the question to be effective.

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January 11, 2005, read first time and referred to Committee on Rules and Legislative Procedure.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular General Assembly.

SENATE JOINT RESOLUTION No. 6

A JOINT RESOLUTION proposing an amendment to Article 5 of the Constitution of the State of Indiana.

Be it resolved by the General Assembly of the State of Indiana:

1 SECTION 1. The following amendment to the Constitution of the
2 State of Indiana is proposed and agreed to by this, the One Hundred
3 Fourteenth General Assembly of the State of Indiana, and is referred to
4 the next General Assembly for reconsideration and agreement.

5 SECTION 2. ARTICLE 5, SECTION 10 OF THE CONSTITUTION
6 OF THE STATE OF INDIANA IS AMENDED TO READ AS
7 FOLLOWS: Section 10. (a) ~~In case~~ **If** the Governor-elect fails to
8 assume office, ~~or in case of the death or resignation of the Lieutenant~~
9 **Governor-elect becomes Governor and holds office for the term of**
10 **the Governor-elect.**

11 **(b) If the Governor dies, resigns, or the Governor's removal is**
12 **removed** from office, the Lieutenant Governor ~~shall become~~ **becomes**
13 **Governor by operation of law** and ~~hold~~ **holds** office for the unexpired
14 term of the ~~person whom the Lieutenant immediately previous~~



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1 Governor. ~~succeeds. In case~~ The oath of office taken by the
 2 Lieutenant Governor as Lieutenant Governor serves as the oath of
 3 office for the office of Governor.

4 (c) The General Assembly shall provide by law for the
 5 Lieutenant Governor to discharge the Governor's powers and
 6 duties as Acting Governor if:

7 (1) the Governor declares; or

8 (2) the president pro tempore of the Senate and the speaker of
 9 the House of Representatives determine;

10 that the Governor is unable to discharge the Governor's powers and
 11 duties. of the office; the Lieutenant Governor shall discharge the
 12 powers and duties of the office as Acting Governor.

13 (b) Whenever there is a vacancy in (d) If the office of Lieutenant
 14 Governor dies, resigns, is removed from office, or becomes
 15 Governor by operation of law under subsection (b), the Governor
 16 shall nominate a an individual to become Lieutenant Governor. who
 17 shall take The individual nominated by the Governor takes office
 18 upon confirmation by a majority vote in each house of the General
 19 Assembly and ~~not~~ holds office for the unexpired term of the
 20 immediately previous Lieutenant Governor. If the General Assembly
 21 is not in session, the Governor shall call it into special session to
 22 receive and act upon the Governor's nomination. In the event of the
 23 inability of

24 (e) The General Assembly shall provide by law for an individual
 25 nominated by the Governor to discharge the Lieutenant
 26 Governor's powers and duties as Acting Lieutenant Governor if
 27 the Lieutenant Governor or the Governor determines that the
 28 Lieutenant Governor is unable to discharge the Lieutenant
 29 Governor's powers and duties. of the office; the General Assembly
 30 may provide by law for the manner in which a person shall be selected
 31 to act in the Lieutenant Governor's place and declare which powers and
 32 duties of the office such person shall discharge.

33 (c) Whenever the Governor transmits to the President pro tempore
 34 of the Senate and the Speaker of the House of Representatives the
 35 Governor's written declaration that the Governor is unable to discharge
 36 the powers and duties of the office; and until the Governor transmits to
 37 them a written declaration to the contrary, such powers and duties shall
 38 be discharged by the Lieutenant Governor as Acting Governor.
 39 Thereafter, when the Governor transmits to the President pro tempore
 40 of the Senate and the Speaker of the House of Representatives the
 41 Governor's written declaration that no inability exists, the Governor
 42 shall resume the powers and duties of the office.

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(d) Whenever the President pro tempore of the Senate and the Speaker of the House of Representatives file with the Supreme Court a written statement suggesting that the Governor is unable to discharge the powers and duties of the office, the Supreme Court shall meet within forty-eight hours to decide the question and such decision shall be final. Thereafter, whenever the Governor files with the Supreme Court the Governor's written declaration that no inability exists, the Supreme Court shall meet within forty-eight hours to decide whether such be the case and such decision shall be final. Upon a decision that no inability exists, the Governor shall resume the powers and duties of the office.

(e) Whenever there is a vacancy in (f) If both the office offices of Governor and Lieutenant Governor are vacant, the General Assembly shall convene in joint session **not later than** forty-eight (48) hours after such occurrence the later vacancy occurs and elect a Governor from and of the same political party as the immediately past previous Governor by a majority vote of each house. If either house of the General Assembly is unable to assemble a quorum of its members because of vacancies in the membership of that house, the General Assembly shall convene not later than forty-eight hours after a sufficient number of the vacancies are filled to provide a quorum of members for that house.

(f) An individual holding one (1) of the following offices shall discharge the powers and duties of the governor if the office of governor and the office of lieutenant governor are both vacant, in the order listed:

(1) The speaker of the house of representatives.

(2) The president pro tempore of the senate, if the office described in subdivision (1) is vacant.

(3) The treasurer of state, if the offices described in subdivisions (1) and (2) are vacant.

(4) The auditor of state, if the offices described in subdivisions (1) through (3) are vacant.

(5) The secretary of state, if the offices described in subdivisions (1) through (4) are vacant.

(6) The state superintendent of public instruction, if the offices described in subdivisions (1) through (5) are vacant.

(g) An individual's authority to discharge the governor's powers and duties under subsection (f) ends when the general assembly fills the office of governor under this section.

The General Assembly may provide by law for designated state officers (including officers of the General Assembly) to discharge

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the Governor's powers and duties as Acting Governor until the General Assembly elects a Governor under this subsection.

(g) If any of the following applies, the General Assembly shall convene in joint session not later than forty-eight (48) hours after the event occurs and select an Acting Governor from the same political party as the Governor by a majority vote of each house:

(1) Both the Governor and Lieutenant Governor are unable to discharge the powers and duties of their respective offices.

(2) The office of Governor is vacant and the Lieutenant Governor is unable to discharge the powers and duties of the Lieutenant Governor.

(3) The Governor is unable to discharge the powers and duties of the Governor and the office of Lieutenant Governor is vacant.

The General Assembly may provide by law for designated state officers (including officers of the General Assembly) to discharge the Governor's powers and duties as Acting Governor until the General Assembly selects an Acting Governor under this subsection.

(h) An individual who serves as Acting Governor may exercise all the Governor's powers and duties. An individual who serves as Acting Governor surrenders the Governor's powers and duties when the earliest of the following occurs:

(1) The Governor's term of office expires.

(2) The Governor resumes the Governor's powers and duties.

(3) Another individual becomes Acting Governor.

(4) The individual is unable to discharge the Governor's powers and duties.

(i) An individual who serves as Acting Lieutenant Governor has all the Lieutenant Governor's powers and duties. An individual who serves as Acting Lieutenant Governor surrenders the Lieutenant Governor's powers and duties when the earliest of the following occurs:

(1) The Lieutenant Governor's term of office expires.

(2) The Lieutenant Governor resumes the Lieutenant Governor's powers and duties.

(3) Another individual becomes Acting Lieutenant Governor.

(4) The individual is unable to discharge the Lieutenant Governor's powers and duties.

(j) An individual who serves as Acting Governor by virtue of another office the individual holds does not forfeit the other office upon becoming Acting Governor. The individual may not discharge the powers and duties of the other office while serving as

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1 Acting Governor.

2 (k) If a question arises:

3 (1) under subsection (c) or (g) as to whether the Governor is
4 able to discharge the Governor's powers and duties; or

5 (2) under subsection (e) or (g) as to whether the Lieutenant
6 Governor is able to discharge the Lieutenant Governor's
7 powers and duties;

8 the president pro tempore of the Senate and the speaker of the
9 House of Representative may jointly file a petition with the
10 Supreme Court. The Supreme Court shall meet not later than
11 forty-eight (48) hours after the petition is filed and decide the
12 question.

13 (l) If the Supreme Court determines that the Governor is unable
14 to discharge the Governor's powers and duties under subsection
15 (k), the Governor may subsequently file a petition with the
16 Supreme Court for a determination that the Governor is able to
17 discharge the Governor's powers and duties. If a petition is filed
18 under this subsection, the Supreme Court shall meet to decide the
19 question. A decision of the Supreme Court of a question under this
20 subsection is final.

21 (m) If the Supreme Court determines that the Lieutenant
22 Governor is unable to discharge the Lieutenant Governor's powers
23 and duties under subsection (k), the Lieutenant Governor may
24 subsequently file a petition with the Supreme Court for a
25 determination that the Lieutenant Governor is able to discharge
26 the Lieutenant Governor's powers and duties. If a petition is filed
27 under this subsection, the Supreme Court shall meet to decide the
28 question. A decision of the Supreme Court of a question under this
29 subsection is final.

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